

VZCZCXRO4000  
OO RUEHAT RUEHSK RUEHSL  
DE RUEHGV #0094/01 0331141  
ZNR UUUUU ZZH  
O R 021139Z FEB 10  
FM USMISSION GENEVA  
TO RUEHC/SECSTATE WASHDC IMMEDIATE 0047  
INFO HUMAN RIGHTS COUNCIL COLLECTIVE  
RUCNDT/USMISSION USUN NEW YORK 0008  
RUEHTV/AMEMBASSY TEL AVIV 0001

UNCLAS SECTION 01 OF 07 GENEVA 000094

SENSITIVE  
SIPDIS

E.O. 12958: N/A  
TAGS: [PHUM](#) [PREL](#) [UNHRC](#)  
SUBJECT: Preview of March 2010 Human Rights Council Session

REF: GENEVA 16

Summary

-----

11. (U) The 13th session of the Human Rights Council (HRC) will take place in Geneva from March 1 - 26, 2010. The longest of the three yearly meetings, the March session opens with the High Level Segment. This cable outlines key issues Mission Geneva expects will be raised at the 13th Session, particularly: "defamation of religions," religious intolerance, and related issues; presentation of a joint study on global practices in relation to secret detention; and country-specific items to include the Goldstone report follow-up, the Occupied Palestinian Territories, Iran, Guinea, and the renewal of the mandates for the Democratic People's Republic of Korea, the Democratic Republic of the Congo, and Burma. We also outline possible resolutions based on recent activities in Geneva and the 2009 March session. End Summary.

High Level Segment

-----

12. (U) Since the establishment of the Council in 2006, the March session has opened with a High Level Segment (HLS). Typically, delegations are represented at the Ministerial or higher level for the opening of the Session. In some cases, Heads of State have addressed the Council. In the past, the United States has been represented by the Chief of Mission. At the request of Switzerland, the HRC is also organizing a mini-High Level Segment on the issue of the draft Declaration on Human Rights Education and Training. The Swiss have asked for senior U.S. representation or at least a USG statement from the floor during this mini-high level segment. [Note: we informed the Swiss that we did not expect to have a high level official for this segment and that we would consider making a statement from the floor. End note.]

-----

Key Issues

-----

The Defamation Cluster

-----

13. (U) Drawing from the experience of the 10th HRC Session in March 2009, which featured five resolutions on the cluster of issues tied to the "defamation of religions" debate, we can expect this topic to figure prominently at HRC 13. Resolutions in this area may seek to impose legal restrictions on speech as a way to combat religious discrimination. The five related resolutions presented in March 2009 which may reappear this year are listed here, including sponsor state and/or group:

-- Elaboration of Complementary Standards to the International Convention on the Elimination of All Forms of Racial Discrimination, which governs the Ad Hoc Committee (South Africa/Nigeria). See paragraph 4 for details.

-- From Rhetoric to Reality: A global call for concrete action against racism, related intolerance (South Africa). This resolution incorporated language on the work of the Ad Hoc Committee in 2007, but ran separately in 2008.

-- Combating Defamation of Religions (Pakistan/OIC).

GENEVA 00000094 002 OF 007

-- Religious Intolerance (EU). Note: While this EU resolution is traditionally run in the March session, the EU has not yet confirmed its plans for the resolution during the 13th session. This resolution has been subject to increasingly intense negotiations in recent years, with some OIC member states offering problematic formulations linked to defamation, or rejecting others that would promote absolute religious freedom (such as references to the ability to change one's religion); it was unexpectedly called to a vote by South Africa in 2009, in which they voted no.

14. (SBU) The Ad Hoc Committee on the elaboration of complementary standards: This body is the nexus for the defamation and freedom of expression debate. The Chairperson-Rapporteur, Algerian Ambassador Idriss Jazairi, will present the report of the Ad Hoc Committee's October 2009 meeting at the March session. Jazairi has assured delegations that he will present a factual recording of the discussion, reflecting the lack of consensus within the group; however, the follow-on resolution could spark fierce debate. As the mandate of the Ad Hoc Committee is not time-limited, we expect the African Group (AG), with support from OIC delegations, to table a resolution providing for a specific program of work for the Committee in 2010. Like the meeting in October, a potential resolution on this issue will again provide a forum for continued debate on the appropriate government responses to counter racial and religious intolerance. The OIC and AG interpret this mandate as a requirement to draft a new treaty that would limit free speech as a way to prevent people from negatively portraying religions (primarily Islam). Dispute over whether such a mandate pertains exclusively to "complementary standards" in the form of a new international legally binding instrument would no doubt continue in the negotiation of such a resolution.

15. (U) While we will continue to oppose any attempts to amend or reinterpret existing international law to address racial and religious discrimination and intolerance, we see this as an opportunity to offer an alternative, action-based approach that would address the underlying concerns without placing unacceptable limits on the freedom of expression or religion. Heavy, early engagement and lobbying could gain further support for our Action Plan approach, which could provide an alternative to states that need a justification to oppose any further work by the Ad Hoc Committee on a binding instrument. In the long-run, such an

approach might also contribute to increased opposition to the defamation resolution in general, as countries realize that concern for religious minorities can be addressed through support for concrete measures rather than protracted, conceptual debates.

¶16. (SBU) We should capitalize on the momentum of the United Nations General Assembly (GA) vote, where we have increased steadily the "no" votes on the defamation of religions resolution; A/RES/64/156 was adopted in plenary with a vote of 80-61(US)-42, up from 81-55(US)-43 in the Third Committee just weeks prior, and a significant improvement over the vote in 2008 (85-50(US)-42).

#### Secret Detention Study

-----

¶17. (SBU) A group of four special procedures will present their joint study on global practices in relation to secret detention in the context of countering terrorism (Secret Detention Study). The group includes the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the Vice-Chairperson of the Working Group on Arbitrary Detention; and the Chairperson of the Working Group on Enforced or Involuntary Disappearances. The four will sit jointly on the dais during the March HRC for an interactive dialogue devoted solely to the report. The report was posted on the OHCHR website in late January. The pages covering the United States feature criticism of alleged U.S.

GENEVA 00000094 003 OF 007

uses of secret detention and alleged abuse of detainees in U.S. custody. The report mentions approximately 70 countries (some 40 of which responded to the study questionnaire) and covers incidents both before and after the beginning of the war in Afghanistan. We should be prepared for a session in which other states, NGOs, and the media condemn the alleged practices of the United States. Other states have already taken issue with the report. The African Group reportedly sent a letter to the HRC Secretariat expressing concern about the report, arguing that the mandate holders exceeded their mandates in undertaking the study. The African Group and OIC might try to block the presentation and discussion of the report at the March session. The OHCHR has encouraged the Group's members to allow the report to be presented and to make their critical comments from the floor of the HRC during the debate. This issue could come up as early as the February 20 organizational meeting for the HRC March session.

#### Iran

-----

¶18. (SBU) The March session offers an opportunity to highlight concerns about recent human rights violations in Iran. Options include a resolution seeking a range of actions, from establishing a Special Rapporteur or other special procedure, to recommending that the United Nations launch a commission of inquiry.

¶19. (SBU) Several European members, including Spain (the incoming EU President), France, and Norway, have expressed interest in Council action on Iran. A significant number of NGOs are actively urging a Special Session. Other delegations have told us we should not

expect Iran specific action in the HRC absent a triggering event [i.e. something worse than the current, ongoing crackdown].

¶10. (SBU) COMMENT: U.S. Mission Geneva assesses that there may be enough support for an Iran item, but we and like-minded countries would need to expend significant political and human capital to ensure a substantive outcome with specific follow-up. It is unlikely that any Council action would be able to replicate the numbers from the GA vote. Some Council members oppose country-specific items on principle. Furthermore, Iran will undergo its Universal Periodic Review (UPR) process in February 2010. Some members may hesitate to put Iran in the spotlight so soon after its UPR. For some states, Iran's conduct at its UPR may influence their willingness to back action against Iran in March.  
END COMMENT.

Guinea

-----  
¶11. (SBU) The human rights situation in Guinea also warrants country-specific action at the March session. Options are similar to those on Iran and include seeking a special procedure or running a resolution expressing concern about recent events. Alternatives include declaring support for the Commission of Inquiry's recommendation to establish an OHCHR presence in Guinea. Many European delegations are keen on Guinea action. There appears to be hesitancy among African delegations. Zambia, Mauritius, and Senegal, have all told us they would not be in a position to lead on a Guinea resolution and that they were awaiting the outcome of the African Union Summit to determine the direction the African heads of state wanted to take in addressing the situation in Guinea.

¶12. (SBU) COMMENT: For Council action on Guinea to succeed, it will require the strong and early support of African states. It would be best to have African states lead an initiative or have another like-minded country act as the main force behind the resolution. As with any country-specific item, action on Guinea would require a significant push of outreach and lobbying to achieve. One African delegate suggested we consider pushing an Iran resolution at the

GENEVA 00000094 004 OF 007

same time as the Guinea resolution in order to dilute the African concerns that they are targets of resolutions because of their perceived "weakness." END COMMENT.

Mandates for Renewal

-----  
¶13. (U) The mandates for the Special Rapporteurs for the Democratic People's Republic of Korea (DPRK) and Myanmar will be up for renewal in March. In addition, the resolution calling for strengthened technical assistance and cooperation to the Democratic Republic of the Congo (DRC) will need to be renewed, or replaced with a stronger country mandate seeking a Special Rapporteur or Independent Expert, if further HRC-mandated investigation is to continue.

Goldstone, Israel, the OPT, and Related Items

-----

¶14. (U) We can expect a significant focus on Israel, the Occupied Palestinian Territories (OPT), and related issues at the March session. In particular, we expect three major outcomes resulting from Council Resolution S-12/1, passed at the 12th Special Session in October 2009 (Gaza Session). First, we expect a report from the UN Secretary General on steps taken to implement the recommendations of the Independent International Fact-Finding Mission on the Gaza Conflict (Goldstone Report). Second, the High Commissioner for Human Rights is to report on the status of the implementation of Resolution S-12/1. Third, a Council member (likely Pakistan on behalf of the OIC, with strong support from the Arab Group, NAM, and the African Group) is likely to present a follow-up resolution on the implementation of the Goldstone report recommendations. According to Spain, this resolution may be based on the resolution that was drafted but withdrawn at the 12th Regular HRC Session in September 2009.

¶15. (U) Additional elements in a Goldstone follow-up resolution could advocate for the implementation of GA resolution A/64/L.11 (for example, calling on the Government of Israel and Palestinian authorities to conduct independent investigations, or calling on the Government of Switzerland to reconvene a Conference of High Contracting Parties to the Fourth Geneva Convention). In December 2009, we received a Note Verbale from High Commissioner Pillay concerning the recommendation that States pursue criminal investigations in national courts, using universal jurisdiction, to prosecute perpetrators of the alleged grave breaches of the Geneva Conventions outlined in the report. There may be further requests from the High Commissioner regarding Goldstone recommendations.

¶16. (U) In addition to the items that are specifically related to Goldstone follow-up, the following resolutions relating to Israel and the OPT could be presented this year, based on what we are hearing in Geneva and based on last year's March session:

-- Israeli military attacks in Gaza; last year's resolution particularly highlighted the events at al-Aqsa mosque and called for follow up at the 13th Session (Pakistan/OIC, Palestine/Arab League)

-- Right of Palestinian people to self-determination (Palestine/Arab Group)

-- Israeli settlements (Palestine, Arab Group)

GENEVA 00000094 005 OF 007

-- Human Rights in the Syrian Golan (Palestine/Arab Group, Syria)

Universal Periodic Review Reports

-----

¶17. (SBU) The following UPR Reports will be presented for adoption at the March Council session. While UPR report adoptions usually go smoothly, we should keep an eye out for potential problems concerning adoption of the Cyprus report; Cyprus refused to attend

the adoption of the report by the December UPR Working Group (see Geneva 16). The States Under Review are required to accept or reject all recommendations before their UPR report adoption in the HRC session. In this vein, we should continue to encourage broad acceptance by DPRK of recommendations provided during its UPR review. At the same time, we should maintain pressure on other governments to hold DPRK to a high standard.

- Albania
- Bhutan
- Brunei Darussalam
- Cambodia
- Costa Rica
- Cote d'Ivoire
- Cyprus
- Democratic People's Republic of Korea
- Democratic Republic of the Congo
- Dominica
- Dominican Republic
- Equatorial Guinea
- Eritrea
- Ethiopia
- Norway
- Portugal

118. (U) Following is a list of possible resolutions based on discussions in Geneva and the resolutions presented at the 10th HRC Session in March 2009. Last year's sponsors are listed in parentheses when known. Post will canvass delegations to determine what resolutions will come up this year.

#### Civil and Political Rights Resolutions:

- Arbitrary Detention (France)
- Human Rights and Counterterrorism (Mexico)
- Arbitrary deprivation of nationality (Russian Federation)
- Enforced or involuntary disappearances (France)
- Right to Truth and Forensics (Argentina)
- Use of Mercenaries (Cuba)
- Torture (Denmark)
- Genocide prevention (Armenia) has been discussed at previous March sessions, but was not introduced at HRC 10.

GENEVA 00000094 006 OF 007

#### Economic, Social, and Cultural Rights Resolutions:

- Economic, Social, and Cultural Rights (Portugal)
- Persons with disabilities (Mexico, New Zealand)
- Climate Change, possibly to include Copenhagen follow-up (Maldives)
- Rights of the Child Implementation (Uruguay)
- UN Declaration for HR Education and Training, including mini-high level segment (Morocco, Switzerland)
- Leprosy, potential follow-on resolution to finalize the guidelines passed last year (Japan)
- Right to Food resolution at March 2009 Session established a 3-year mandate for a Special Rapporteur; we could see a follow-on resolution (Cuba)
- Administration of Justice, Juveniles (Austria)
- Social Forum, Poverty (Cuba)
- Cultural Rights (Cuba); the 2009 resolution established the special procedure and called for followup in March 2010.

#### Country-Specific Resolutions and Other

-----

- Situation in the Democratic People's Republic of Korea, Mandate renewal (Japan, Spain/EU)
- Situation in Myanmar, Mandate renewal (Spain/EU, usually requires lobbying from the U.S. and Japan)
- Technical Cooperation for Democratic Republic of the Congo (Egypt/African Group)
- Composition of staff of the Office of the High Commissioner of Human Rights (OHCHR)
- International Human Rights Cooperation (NAM)
- Regional Arrangements for HR (Belgium)

#### Comment

-----

¶19. (SBU) March will be a packed session. Given the significant number of high-profile and particularly challenging issues on the docket for March, we will need to tightly prioritize our initiatives. This is particularly important given the need for lobbying by Washington and in capitals. Mission Geneva believes that with energetic attention to addressing the specific area where the concept of "defamation of religions" has most recently and dangerously been advanced, namely the Ad Hoc Committee on Complementary Standards, we may be able to secure enough support for a positive outcome on that resolution. However, such success will require intense, active work with not only the moderate group of cross-regional countries who voted in support of the Committee's original mandate but remain opposed to a binding instrument on defamation, but also with the resolution's traditional sponsors: South Africa, with the support of African Group Chair Nigeria. Likewise, we could face difficulties if we extend ourselves on country mandates at the same time. It will be important to find other delegations to take the lead on some of these initiatives.

At the same time, we will have to continue to demonstrate that we

GENEVA 00000094 007 OF 007

are both firm on demanding Council action on the worst abuses while also building new cross-regional alliances that demonstrate we are changing the dynamic of the Council. End comment.

RICHTER